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February 12, 2024

Via ECF

Hon. Dale E. Ho, U.S.D.J.
United States District Court
Southern District of New York
40 Foley Square,
New York, NY 10007

Re: *Zhao v. Surge Private Equity LLC, et al*
Case No. 22-cv-07314

Honorable Judge Ho:

We are counsel to Plaintiff. We write to inform the Court of discovery disputes and to request an informal conference under Local Civil Rule 37.2 and Your Honor's Individual Rules and Practices in Civil Cases, Section 4(j). The parties have met and conferred on April 18, 2023 and April 25 but were unable to successfully resolve the following disputes, which now require Court intervention:

1. 216(b) Collective List

The Court's January 22, 2024 Order granted Plaintiff's request for supplemental collective notice mailing and urged Plaintiff to act promptly and engage in collective notice. Since then, Plaintiff requested that Defendants supplement their faulty 216(b) Collective List several times. We emailed Counsel to Defendants, Mr. Byrnes, and attempted to call him several times. Defendants have been unresponsive and uncooperative.

Therefore, Plaintiff requests Defendants be compelled to produce a complete 216(b) Collective List.

2. Depositions

To this date, Defendants have failed to provide the 30(b)(6) witnesses for Surge Private Equity LLC and Equity Hippodrome Services Corp., and Individual Defendant Douglas Kopelman's availability for Deposition.

Plaintiff served deposition notices for Individual Defendant and 30(b)(6) representatives for Corporate Defendants on April 7, 2023, since then, Plaintiff discussed deposition dates with Defendants at almost every meet and confer and has sent countless unanswered emails. Plaintiff has sought potential deposition dates to be scheduled in May 2023. To this date, Defendants have failed to provide Defendants' availability for depositions.

Therefore, Plaintiff requests Defendants be compelled to identify 30(b)(6) representatives for Corporate Defendants and confirm deposition dates.

Respectfully submitted,

/s/ C.K. Lee

C.K. Lee, Esq.

Application **DENIED**. Plaintiff's request for a conference is denied as moot in light of Defendants' representations in their letter dated February 16, 2024, see Dkt. No. 64. Plaintiff requests that Defendants supplement the list of collective members to effectuate collective notice. Defendants' letter states that such a list has been provided to Plaintiff and that they will supplement this list with telephone numbers for the employees listed. Plaintiff also requests that Defendants identify Rule 30(b)(6) representatives and confirm deposition dates. Defendants' letter states that Douglass Kopelman will serve as the Rule 30(b)(6) representatives for the corporate Defendants and that they are receptive to scheduling depositions for May 2024.

The parties are reminded of their obligation to meet and confer in accordance with Individual Rule 4(k). Plaintiff's letter states that the parties conferred on April 18 and April 25, 2023, and were unable to resolve their disputes. It is unclear how the parties met and conferred in April 2023 regarding supplemental notice pursuant to an order issued in January 2024. In any event, the parties are directed to work in good faith to complete discovery by the timelines contained in the order issued January 22, 2024, see Dkt. No. 61. So Ordered.

The Clerk of Court is respectfully directed to close the motion at Dkt. No. 62.



Dale E. Ho

United States District Judge

Dated: February 20, 2024

New York, New York